

STITCH

MR. SMITH, OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES, MARCH 10, 1856,

On the Resolution reported by the Committee of Elections in the Contested-Election case from the Territory of Kansas:

Resolved, That the Committee of Elections, in the contested-election case from the Territory of Kansas be, and are hereby, empowered to send for persons and papers, and to examine witnesses upon oath or affirmation.

Mr. SMITH, of Alabama, said:

Mr. SPEAKER: Having declined to concur in the report of the majority of the Committee of Elections, I feel it due to myself to give, briefly, some of the reasons which influenced me. In the progress of the investigation of this case before the committee, it appeared very clear to me that the claim set up by Governor Reeder was the merest pretense, without the shadow of right. Seeing no right on the part of the contestant, I thought that the labors of the committee should have been brought to a close by a resolution dismissing the subject; and I should greatly prefer to the resolution now before the House, one in the following words: Whereas Governor Reeder has failed to make a respectable showing of his right to the seat now occupied by General Whitfield as Delegate from the Territory of Kansas; and whereas General Whitfield has presented a certificate from the Governor of Kansas that he was duly elected Delegate from Kansas by the qualified voters of said Territory: Be it therefore resolved, that the Committee on Elections be discharged from the further consideration of the subject.

RIGHT TO SIT A PERSONAL RIGHT.

"It will be admitted that the right to a seat in Congress, either as a member or as a Delegate, is a personal right. All the laws of Congress on the subject of contested elections point to this right as a personal right—common sense makes it a personal right, as much so as the right to hold the office of constable or sheriff.

This was evidently the understanding of Governor Reeder in the beginning of this controversy; for we find him moving in the premises in conformity with the rules of law. On the 16th day of October, 1855, he gave General Whitfield this notice:

"I shall contest your right to a seat in the next Congress of the United States as congressional Delegate of the Territory of Kansas"—"and the depositions of witnesses to prove the invalidity of the law under which your alleged election took place, and the illegality of votes cast for you on the 1st day of October, instant, will be taken at the following times and places, before some judge, justice, or

competent person; at which times and places you may attend, if you think proper, to cross-examine."

He sets apart the month of November, from the 5th to the 28th, inclusive; and names the places at which he will appear to take testimony. But he now appears before us without the shadow of evidence, asking Congress to adopt this most extraordinary resolution to send for persons and papers. And it seems that instead of remaining to meet General Whitfield at the times and places appointed, he left the Territory. This notice to General Whitfield is next followed by a memorial to Congress, in which Governor Reeder says—

"That he claims to be entitled to represent the said Territory in the Thirty-Fourth Congress as congressional Delegate, to the exclusion and in lieu of Hon. J. W. Whitfield, the sitting Delegate.

"And your memorialist further states, that he was duly elected by a large majority of the legal voters of the said Territory to the said office of Delegate, at an election held on the 9th day of October, which he proposes to show was the only valid election held in the Territory for that purpose."

COMMITTEE ABANDONS GOVERNOR REEDER.

Here Governor Reeder sets up the claim that he is entitled to sit to the exclusion of General Whitfield, appealing to Congress to vindicate this personal right. Now, sir, I do not think that the committee have a right to shift the issue here presented by the contestant. The issue here presented is, that he, Reeder, is entitled to sit to the exclusion of Whitfield. The committee, in their report, abandon Governor Reeder's claim in these words:

"The Hon. A. H. Reeder, the contestant, bases his right to the seat on an election held at a different time—a right to which your attention has not, as yet, been directed, inasmuch as we understand no process for witnesses in relation to it is asked by either party."

The committee, then, makes the issue between the Legislature of Kansas and the Congress of the United States—setting up Congress as a tribunal to decide as to which of the members of the Legislature of Kansas were entitled to seats in that body, and which were not entitled—presenting the extraordinary spectacle of Congress

deciding upon the contested seats of the whole Legislature of the Territory of Kansas!—an assumption as audacious as it is absurd, an effort as imprudent as it is impolitic.

That the committee have not only abandoned Governor Reeder and his claim, but have deliberately shifted the issue as presented in his memorial, is made more evident by the following paragraph from the majority report, page 9:

"The reasons assigned for the failure of the attempt to take depositions have appeared to your committee satisfactory and sufficient; and we may add that, had there been the most undivided neglect in that particular, your committee would have deemed it their duty to obtain evidence of the facts, not so much for the sake of the contestant, as for the grave issues made up before the House and the whole country. The severe allegation made by the contestant, of a most extraordinary and deliberate attempt on the part of a high officer of the Government—the Secretary of the Territory—to withhold all copies of papers in his office, would seem to be almost incredible, did not the contestant deliberately aver the fact and his readiness to prove it."

Governor Reeder is abandoned as a contestant, but retained as a witness; and the committee not only shifts the issue from Governor Reeder and General Whitfield to Congress and the Kansas Legislature, but absolutely retains Governor Reeder as a witness to impeach the Secretary of Kansas. The claim, as set up by the contestant, is lost sight of completely, and the committee arraigns the Kansas Legislature and the Secretary of Kansas Territory!—presenting an impeachment of an officer; in effect, without the forms of law required for so solemn a procedure.

Sir, I do not admire this effort to shove Governor Reeder out of the public view. He is to be shuffled down to the bottom of the pack, and another Jack, in the shape and with the ferocious aspect of Draco, as personifying the laws of Kansas, is to be turned up. To say the least of this, it is disingenuous—a dodge of the legitimate question, a mere quibble unworthy of the gravity of an American Congress. That Governor Reeder has inspired even his friends with infinite disgust by the feebleness of his exertions to sustain his claim, by his self-stultification in repudiating his own Legislature, and by his floundering efforts to avoid the responsibility of his own certificates and his own official acts, there is but little doubt. The figure he occupies in the picture is certainly not calculated to promote the designs of his party. But, sir, I am not willing that he should be lost sight of in the controversy which he has provoked. Not only is Governor Reeder abandoned by the committee, but by some of his friends. The honorable gentleman from Ohio [Mr. BINGHAM] says, distinctly, referring to Reeder, "he is *not* a contestant;" and the same gentleman argues elaborately and ably against the validity of the acts of the Kansas Legislature, referring, in the course of his remarks, to the exciting questions arising out of the affairs of Kansas, which have for so long filled the public newspapers.

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GOV. REEDER ASSAILING HIS OWN LEGISLATURE.

This Legislature of Kansas, which the gentleman assails, and which had been elected pursuant to Governor Reeder's proclamation, authorized by enactment that the election for Delegate to Congress should take place on the 1st day of October, 1855. On that day an election was held; General Whitfield, the sitting Delegate, was

elected without opposition, receiving some two thousand nine hundred votes.

Governor Reeder was not then a candidate for Congress, and had been removed from the office of Governor only about ten days. It is admitted that General Whitfield was elected under the act of the Legislature. Governor Reeder claims to have been elected on the 9th day of October, nine days after the regular election, and it is admitted that this election on the 9th of October was not authorized by any law. But it is contended that the Legislature was composed of usurpers; that therefore their acts are void; and that their acts being void, the peaceable act of the people of Kansas in electing Governor Reeder on the 9th (Mr. BINGHAM's speech) is of as binding force as the election of General Whitfield under an invalid statute. Yet this statute was passed by a Legislature which was acting under the certificate of Governor Reeder, the contestant. He not only authorized the election by proclamation, but upon the returns he gave certificates to all the members except eight. The legal questions arising upon the facts of this case are closed. The gravest objection is, that the Legislature adjourned from one town to another. The supreme court of the Territory has already decided that it had the power; and the question of the illegality of the election of the Legislature is not only beyond the reach of Congress, but is outside of this case as applicable to the rights of Governor Reeder, he having recognized said Legislature.

PERFECTION OF LEGISLATION NOT TO BE EXPECTED IN NEW TERRITORIES.

Can you expect perfection of legislation in a border Territory? The legislator, as well as the pioneer, must adapt himself to the inconveniences of wilderness life. The law is no less sacred when made in a log hut than when made in the loftiest capitol. You can neither expect the perfection of law nor the graver formalities of the higher order of legislation. In the first Territorial Legislature of Alabama, history informs us that "James Titus was the *only* member of the Senate. He sat alone; and decided upon the acts of the lower House; and adjourned and met again with a formality quite ludicrous!" Nobody ever thought of impeaching any law of the Territorial Legislature of Alabama simply because the Senate was composed of a single man; although a quibbler might say that the word senate has the plural signification of a number of persons.

But it is contended by the gentleman from Ohio [Mr. BINGHAM] that

"This pretended legislation of Kansas violates the Constitution in this—that it abridges the freedom of speech and of the press, and deprives persons of liberty without due process of law, or any process but that of brute force, while the Constitution provides that Congress shall make no law abridging the freedom of speech or of the press; and it expressly prescribes that 'no person shall be deprived of life, liberty, or property without due process of law.'"

If the acts of the Legislature of Kansas are violative of the Constitution, is this the place, or is this the tribunal, to settle the question? The courts of competent jurisdiction are to decide; and the legitimate way to do this is upon the trial of some person indicted for violating the law.

THE LAWS OF KANSAS NOT NEW.

Gentlemen seem to be astonished at the laws of Kansas on the subject of slavery. They are

described by the gentleman from Indiana [Mr. CUMBACK] as "more bloody than the laws of Draco; more at war with the rights of man than ever emanated from the throne of the most absolute despotism; more disgraceful to our republican Government than anything that has occurred since its formation."

The honorable gentleman from Ohio, [Mr. BINGHAM,] in speaking of these laws, exclaims:

"Has the world seen anything like it since Draco wrote his laws in blood? Consider it, and then tell me whether there are not upon its face proofs as strong as Holy Writ, that it never emanated from a Legislature chosen by freemen to represent freemen—that such atrocious legislation never was enacted by the mere servants of a free people for the government of their masters, by creatures for the control of their creator."

I tell these honorable gentlemen that *Draco* has been abroad in all the southern States. These laws of Kansas are but copies of the laws which have been in existence in nearly all the southern States and southern Territories. Here are the Kansas laws, so loudly complained of by the gentleman from Ohio, [Mr. BINGHAM.] That gentleman says:

"I find on page 715, 716, and 717 of this volume of Kansas laws, passed by this Territorial Assembly, an enactment, by the fourth section of which it is made a felony, punishable with death, for any person to carry away out of that Territory any slave belonging to another, with intent to effect the freedom of such slave;

"And by the fifth section of which it is made a felony, punishable with death, to aid in *perducing* to send any slave belonging to another out of said Territory, to effect his freedom;

"That by the seventh section it is felony, punishable with five years' imprisonment, for any person to aid a slave in escaping from the service of his master, or to aid or harbor any slave who has escaped from his master;

"That by the eleventh section thereof it is made a felony, punishable by five years' imprisonment, to print, or circulate, or publish, or aid in printing, circulating, or publishing, within said Territory any book, paper, pamphlet, magazine, handbill, or circular, containing any sentiment calculated to induce slaves to escape from the service of their masters;"

"That by the twelfth section thereof it is a felony, punishable with imprisonment for two years, for any free person, by speaking or writing, to assert that persons have not the right to hold slaves in said Territories, or to circulate there any book containing any denial of the right of any person to hold slaves in said Territory."

If the gentleman will examine the statutes of the southern States—statutes dating back in many States to territorial existence—he will find similar laws. These laws have been found to be necessary for the protection of property, to prevent wholesale murders, and to crush insurrections. They have never excited at the North such intense hostility as the laws of Kansas seem now to excite. They have never been dragged before the country by any party, for any purpose. No committee of this House have ever thought it necessary or proper to attack any Territorial Legislature in times past for any of these *Draco* laws, as they are now called. Why this excitement now, sir?

WHO ARE THE TRAITORS.

The gentleman from Pennsylvania, [Mr. CAMPBELL,] who has just spoken, exclaims, "Treason stalks abroad in Kansas!" Very likely, sir; but treason is not over public in its movements; there is something dark, and hidden, and sly, and secret about treason. Treason never assumes a bold front until it is detected; its boldness is the offspring of desperation; and treason never ceases to claim to be right, though never so wrong.

That outrages have been committed in Kansas I am perfectly willing to admit—outrages against the decencies and proprieties of government, against law, and of order. But I may differ with the gentleman from Pennsylvania [Mr. CAMPBELL] as to who the traitors are; and I may contend that the train of which he complains has been committed by the very persons whom he would now defend. I know of no man here, who is more eminently worthy to be called the fomentor of treasonable sentiments than the guardian contestant of General Whitfield's seat—Governor Reeder—who is now made to occupy the honorable position of a sort of *qui tam* informant? As between the "emissaries" of the emigrating aid societies and the "border ruffians" of Missouri, I would say to the gentleman from Pennsylvania, [Mr. CAMPBELL,] there is more mischief in a sly man than in a bold one; there is more devil in a sneak than in a bully.

EFFECTS OF WILDERNESS LIFE.

Are the public outrages in Kansas unparalleled? No, sir. They find their history already told in the records of the rise and growth of each of the States of this Union. Turbulence, violence, bloodshed, robbery, and murder, mark the scenes of every border settlement. The wilderness is a poor nurse for the gentler qualities of human nature. The presence of the bear and the panther, the wolf and the viper, insensibly attaches moroseness to the character of the pioneer. The dark forest with its dangers cultivates the harsher features of the man; and there the milder traits of civilization yield gradually to the ferocious instincts of the savage. I know, sir, that the songs of the poets and the pictures of fancy may be brought to contradict these conclusions. The Druid may worship in his wilderness of oaks, and find in it God's chosen temple. The ideal voluptuary may exclaim,

"Oh, that the desert were my dwelling place,
With one fair spirit for my minister!"

The dreaming hermit may wish for

"A lodge in some vast wilderness—
Some boundless contiguity of space,
Where rumor of oppression and deceit—
Of unsuccessful and successful wars,
Might never reach me more."

But poetry and fact do not always go hand in hand together; and the history of men and nations proclaims aloud that ferocity is a part of border life. When Ishmael was driven into the wilderness, "*his hand was raised against every man, and every man's hand against him.*"

Are the public outrages in Kansas unparalleled? Have we not seen and heard of similar scenes of violence in all parts of this country? Is the memory of the early history of Arkansas, Texas, Missouri, and California, already blotted out? Is not the ubiquitous Judge Lynch still presiding in the border States as well as in the Territories, with his lash, his pillory, and his cord? Governor Reeder makes a great to-do over a single instance of the execution of Lynch law in Kansas? Congress is to be aroused, at this late day, with fury in every face, tearing its hair with excited rage, at one single instance of lynching, when the depredations of this American Jeffreys are as common in the border States as coon hunts and fox chases. Have we not seen in California, very lately, whole companies of armed men in mortal

conflict, fighting over the right to dig a certain spot of earth? Have we not seen race arrayed against race in that State, the Americans driving the foreigners—Chinese—from the mines? Has Congress been excited upon these questions? Even in the older States, do we not see, year after year, the most violent outrages committed on the ballot-box? Are not the election precincts frequently invaded, and the polls taken possession of by city mobs, either native or foreign? In Louisiana, judging from the following advertisement, the grossest outrage has been committed on the ballot-box:

"A HEAVY REWARD.—Governor Wickliffe, of Louisiana, has offered a reward of one thousand dollars for such information as will lead to the apprehension and conviction of the persons who broke the ballot-boxes at the seventh and ninth precincts in New Orleans, on the night of the 4th of November, 1855. This measure has been adopted in accordance with the recommendation of the late grand jury in their report to the first district court."

Is Congress called on to send for persons and papers in this case? No, sir. *The election is contested; and the contestant will be required to bring the evidence here at his own expense.*

Here is another case of enormity in an old State:

"INFAMOUS CONDUCT.—At the recent election for municipal officers in Chicago, a gang of lawless Irish ruffians took possession of the polls of the seventh ward, and assaulted and drove off every person whom they thought intended voting the American ticket."

Sir, I might multiply cases similar to these. There is no use to do it. The country is familiar with these every-day occurrences; Congress will not, and should not, have anything to do with these cases. They belong to the law; and if there is no law in Kansas to provide against them, I will help to make a law to reach every man who, in any shape, shall presume to interfere with the elective franchise.

OBJECT OF THIS EXCITEMENT TO ADVANCE THE FUTURE INTEREST OF PARTY.

Well, sir, on the subject of outrages I have shown that the turbulent scenes and acts complained of in Kansas, instead of being remarkable and marvellous, are but the ordinary occurrences of the times in the border Territories; and that, even in the States, the disturbances in Kansas have their common and every-day reflection. Why is it, sir, that these scenes in Kansas, which are so common in the other Territories and in the States, should now absorb so much of the attention of Congress? Why shall this state of affairs in Kansas induce Congress to adopt this most unusual and expensive mode of investigation, as recommended by the committee? It is not to be disguised, sir, that the future success of a rampant party is the moving and stirring cause of all this excitement.

I have said, sir, that the public outrages in Kansas were not without parallel in our history. But there have been outrages in Kansas, deliberate and designed, which are without parallel; I mean those which are committed in the dark by the quiet but deadly maneuvering of those ingenious peace men who, with a puritanical devotion to human liberty, utter speeches which are eulogized all over with treason. When I use the word puritanical, I do not mean a slur upon the old Puritan; I revere his ancient character. The glories of the Revolution cluster about him. Valor in war, courage amid dangers, fortitude in

distress, perseverance in adversity, and forbearance and liberality in prosperity—all these qualities distinguish the habits and illustrate the character of the Puritans, millions of whose descendants I believe still to be worthy of their sires. But the words puritanical and pharisaical have grown to be synonymous; and I apply the phrase to that class of fanatics who, under the deceitful veil of reimagined philanthropy, form what they please to call "emigrant aid societies," with the view and for the well-known purpose of hurrying to a new Territory crowds of dependents, who, in their poverty and necessity, sell the privilege of future free-thought, and purchase homes by the surrender of the liberty of conscience. That these emigrating aid societies are purely political nobody can doubt. A gigantic company was incorporated by the Legislature of Massachusetts, with a capital of \$1,000,000. Either under this charter, or outside of it, by taking deeds of trust from the emigrant to the company, arrangements are perfected by which, as they say, "the emigrant may be protected; a free State may be secured, and valuable property secured to the subscribers." "The emigrant aid company propose to give confidence to the settler by giving system to emigration. By dispelling the fears that Kansas will be a slave State, the company will remove the only bar which now hinders its occupation by free settlers." These are now some of the sentiments publicly avowed; and upon these societies should be thrown a part, at least, of the responsibilities for the outrages committed in Kansas.

GOV. REEDER STIGMATIZING HIS CONSTITUENTS.

I have said that I was unwilling for Governor Reeder to be lost sight of in this controversy. I wish to hold the House to the issue originally tendered by him: That, by virtue of a certain election he was entitled to a seat in this Hall to the exclusion of General Whitfield. And, sir, for a man claiming to be a representative of an intelligent people, what a singular position does Governor Reeder occupy! He arraigns his constituents before the world as rebels; he says, "the great mass of the people of Kansas" refuse to acknowledge the laws, or to "recognize the officers" of law. Again, he says of his constituents:

"The will of men has been already almost entirely substituted for the administration of justice; and, as I have a own, there seems to be no disposition on the part of those who have seized upon the legislative power to put in motion any system of law in the administration of justice. Trespasses, assaults, and murders are openly committed, and no one thinks of appealing for redress to the law, because from that source a redress can be had." * * * "In a word, menace, intimidation, and improper influences are rife in the Territory, especially along the border. Men's rights are held in no regard; official authority commands no respect, and seems to have no restraining tendency or power; and the peace of the country hangs by a thread."

Here you have a description of the people of the Territory of Kansas—a people whom Governor Reeder aspires to represent! Did the world ever before witness a representative, standing up, and in the face of nations stigmatizing his constituents in this way? And note the inconsistency. He cannot escape under the plea that these epithets only apply to his enemies. He slanders them all. The great mass refuse to obey the laws, or to recognize the officers of law.

Here one class is denounced, and this class contains the great mass of the people. Outside of this "great mass" are the office-holders, and they

come in for their share of his abuse in these words: "There seems to be no disposition on the part of those who have seized upon the legislative power to put in motion any system of law." After disposing of the "great mass" of citizens and of the office-holders, he consigns the balance to perdition, thus:

"Trespasses, assaults, and murders are openly committed, and no one thinks of appealing for redress to law, because from that source no redress can be had."

Note the inconsistency: "The great mass" refuse to "acknowledge the law," or to "recognize the officers" of law! Yet "no one thinks of appealing for redress to the law," because "from that source no redress can be had." Here the Governor is caught. The reason here assigned as the cause is, "from that source no redress can be had." But the other reason assigned by him, is "the great mass refuse to acknowledge the law." Can you expect a man who refuses to acknowledge the law to appeal to the law?

Again, he says:

"Men's rights are held in no regard—official authority commands no respect, and seems to have no restraining tendency of power."

Why does "official authority" command no respect? Because, in Governor Reeder's words, the "great mass" of the citizens "refuse to acknowledge the law" or to "recognize the officers." And this great mass are that portion of the citizens whom Governor Reeder aspires to represent. His particular friends yield "no respect to official authority"—hence the conclusion follows irresistibly, that this extraordinary conduct of the "great mass," whom he claims to represent, is the reason why "men's rights are held in no regard."

I do not believe, sir, that any genuine representative could be induced so to arraign his constituents before the world. If the people of Kansas want him to represent them, they are the strangest people on the face of the earth. If he does not mistake their character, and still aspires to the honor of representing them, I advise him to go back next year and tell them that they are scamps, ragamuffins, law-breakers, refusing to acknowledge courts or the power of courts—"trespassers, murderers, and robbers." If he will do this, and he is not deceived in them in his statement to the Committee of Elections, I think he may safely calculate to represent them next time.

EXPENSE OF THE INVESTIGATION.

The next, and certainly not the least important point in this case, is the probable expense. On this question of cost, the committee, in their argument, have made a most unfortunate and impolitic allusion; unfortunate, because it supplies me with an argument; impolitic, because it displays the secret current of agitation which sweeps away with resistless power, under a smooth surface, judgment, taste, and liberality. The committee says:

"The expense of the proceeding should certainly be looked to, but not to the exclusion of all other and higher considerations. Those charged with the administration of the Government have not been in the habit of estimating cost so closely as it seems to be calculated in this case. It has not been long since some thirty thousand dollars of the national treasure were expended for the purpose of reclaiming a single fugitive from service. This was done in a controversy about property, and the amount of that property insignificant. This recourse is not made for the purpose of

casting cen-sure upon executive action; but simply to show that, in sustaining the law, the expense to be incurred is measured by the dignity of the law itself, and not by individual rights which may be affected by the proceeding."

The \$30,000 referred to here was an incidental expense, incurred in upholding a law of Congress. The expense was not created by the Government at the time of the expenditure. The necessity existed in the power of the Executive, as incidental to the exigency—an exigency brought about by a lawless assemblage of puritanical fanatics, bent upon resisting the law. This proposition of the committee creates the necessity of expense. Hence, there is no logic in the reference, so far as it is intended as an argument in favor of this new expense. But there is a deeper logic in this reference than was supposed by the committee—in this: the \$30,000 was expended in beating back the violators of a sacred law. This new expense is to be incurred to uphold "the great mass of the citizens of Kansas"—who, as Governor Reeder says, "refuse to acknowledge as binding" the laws of the Territory of Kansas, or to recognize the officers appointed under the territorial laws. Here are the words of Governor Reeder:

"The justices of the peace appointed under the act of Congress have gone out of office, by expiration of their commissions. Those who are to succeed them, by the territorial laws, are to be appointed by the boards of county commissioners; and their appointments, as well as the laws under which they were created, the great mass of the people of the Territory refuse to acknowledge as binding, and will not voluntarily recognize the authority of such a just act."

Here Governor Reeder represents the great mass of the people of Kansas in open rebellion against the laws of the Territory. In their behalf he speaks; in their behalf the committee speaks. So we see, sir, that the mob in Boston created the necessity of expending the \$30,000, by opposing the execution of a law of the United States; and the same class of persons in Kansas who oppose the execution of the law there are the persons for whose benefit this new expenditure is to be made!

But what will be the probable cost of carrying out the resolution of the committee? Governor Reeder, I believe, wishes some twenty or thirty witnesses; of course, General Whitfield would want as many, or perhaps more, to sustain his position. There is no limit to the number of witnesses. And if the legality of the election of each member of the Kansas Legislature is to be investigated—as is actually proposed by the committee, under Governor Reeder's plea—hundreds of witnesses will be required. But, say there are to be thirty witnesses for Governor Reeder; and the same number for the sitting member—let us estimate in dollars and cents the cost of bringing to the capital sixty witnesses. The mileage of the Delegate from Kansas is about \$2,000. You will have no excuse to say to a citizen of Kansas, whom you may drag from his business and family, that you will pay him any less than you pay the Delegate to Congress. Then the cost of sixty witnesses, at the least, will be \$120,000. This amount would be probably doubled; and no doubt would be doubled under the various pleas which ingenious men invent to get the public money.

This question of expense is important not only because the amount of money will be very large, but because the mode proposed by the committee is *unusual*. The gentleman from Pennsylvania,

[Mr. CAMPBELL,] who has just spoken, asks: "Is there anything unusual in the course pursued by the committee?" Sir, it is most unusual. The laws of Congress, as to the mode of contesting elections, point out to each man his remedy, and the way to reach it. The laws on the subject of contested elections exclude the idea that any man may contest an election at the public expense. He is allowed and required to give notice of his grounds, and to take testimony, and to present that testimony to Congress; and upon that Congress has the right to judge of his qualifications. Without complying with the requisites of the law, Governor Reeder presents himself before Congress, claiming the right to sit to the exclusion of General Whitfield—with his hands perfectly empty—without a shadow of testimony!—armed only with the audacity of a higher law; intimating, "This is no common case; I am no common man; you must make me and my case an exception."

Well, sir, Governor Reeder is a very proper man to advise Congress to disregard the requirements of the law. He is a very proper man to advise the people of Kansas not only to disregard the law, but to break the law; for, if the charges made against him are true, he was amongst the first in Kansas, though occupying the high position of Governor, to violate the law. Experience makes him perfect in the art, and gives him the right to assume and exercise the office of a teacher in the craft of law-breaking.

GOVERNOR REEDER'S EXCUSES FOR NOT BRINGING HIS TESTIMONY.

It was not necessary for the committee to say that the excuses of Governor Reeder, for not having taken his testimony, were sufficient to authorize them to propose this resolution, because they admit that, even if he had exhibited the most marked neglect, still the great issues made up before the country demanded the investigation. But let us examine the excuses, and see whether the House are satisfied with them. He says:

"The only judicial officers in the Territory whose power to administer oaths is unquestioned, the chief justice; and it could not be expected that he would, to the neglect of his official duties, and without the right to receive any compensation, spend three or four weeks, in a trip of several hundred miles, amid the discomforts of the Territory, merely for the purpose of administering oaths." The two seats of associate justices are in dispute between four gentlemen, all claiming that they hold commissions from the President, which are still in force."

Here is an admission that these five judges were not called upon to serve in administering oaths. Governor Reeder has no right to conclude that the chief justice would shrink from an official duty. The dignity of the office of chief justice ought not to deter a man from applying to him to do an official act. It may be that Governor Reeder was unwilling to risk either of these judges with his case, inasmuch as the chief had decided upon one important point in this controversy against Governor Reeder. The excuse that these judges were not called on to serve is flimsy, and should not be received by the House as any reason why the usual course was not pursued in taking the testimony. In the contested case from the Territory of New Mexico, the chief justice and the associate justice, not only administered oaths, but with immense labor conducted the taking and the receiving of the testimony, even

through interpreters. Why could not the same have been done in Kansas?

Again, Governor Reeder says:

"The undersigned also states that he did, in the month of October last, endeavor to supersede the necessity of bringing witnesses before the committee, by an arrangement which he supposed was well matured, to take depositions in the Territory, and caused notice of various times and places to be served on his opponent in this proceeding. One of these places was in the State of Missouri, where he had engaged a resident of the place, and also a lawyer, to attend to the taking of them, for compensation. Why they were not taken at that place the undersigned has never learned, and does not know. In the Territory, they were taken at some places; but there being no person within fifty miles to administer an oath, and not even a justice of the peace, under the disputed laws, they were sworn before private individuals. In other places they were not taken, because it was considered impracticable."

Here is an admission that, even in the State of Missouri, where he had engaged a lawyer to attend for compensation, the testimony was not taken. He does not know the reason. The reason is plain, sir. We must presume that he abandoned this effort as he abandoned all the rest. Governor Reeder had no doubt made up his mind not to pursue the usual course, and that his party and friends in Congress would sustain him under the excitement which he could probably get up by his exaggerated statements.

There was not "even a justice of the peace under the disputed laws" to administer an oath! I am told, sir, that, under the territorial laws, justices of the peace had been elected in nearly every beat in the Territory, and that there was a duly-elected judge of probate for every county. Why were not these officers called upon to act? Because Governor Reeder and the "mass of the citizens," as he says, "refused to acknowledge the laws as binding, or to recognize the officers!" Will the House take such excuses? "In other places depositions were not taken because it was impracticable!" This is a very broad excuse. Impracticable—how? It is admitted, sir, that this impracticability was a mere apprehension of excitement and the stirring-up of a mob! Sir, timidity and pusillanimity, with a bad cause, will make anything impracticable.

Sir, I have shown that Governor Reeder gave notice of the times and places of taking testimony—that there were officers in every beat and county—that after he gave the notice, in a day or two he left the country, and abandoned his cause—abandoned it even in Missouri—left it all to take care of itself! He now asks Congress, in the face of all this, to take him up on his shoulders! Having neglected his own business, he appeals to Congress to take care of his private and personal affairs! Does the mere fact of a contested election, in this or any other country, present so extravagant an appeal? Do I misuse a harsh word, sir, when I say that this appeal is the audacity of higher law? Sir, some persons have a right to appeal to their Government for privileges or for rewards. When men have served their country in peace or in war—when, as legislators or as Governors they leave in their tracks monuments of wisdom and patriotism—when, as warriors they come from the battle-field all covered with blood and scarred with wounds, and with plumes of glory waving about them, they may appeal for justice, for favor, and for reward! But Governor Reeder does not come under this head! Appointed by a credulous Executive to the high office of

Governor of a new Territory, he forgets his fatherly position of peace-maker, and shows himself an arch agitator. Appointed to protect the laws, he breaks through all legal restraints, and, without even the cautions of decency, proves himself a ferocious speculator, with a voracity that would shame the memory of a Warren Hastings. And now, sir, degraded from his position by a justly outraged President, he feels as did an old English Bishop, who exclaimed—

“Nothing is left for me—

But long I will not remain JACK-OUT-OF-OFFICE.”

And to help him in this resolution he appeals to Congress! Will you help him? The excuses of Governor Reeder are the reasons of the committee for urging this resolution. He wants the office—they want the agitation? The one is unjust—the other is fraught with prospective evils so great, that the tongue of man may not easily depict them.

USE OF THE TESTIMONY.

Am I unjust to the committee and to the other gentlemen of this House who press this resolution, when I say that, having abandoned Governor Reeder's claim to a seat, the only use of this investigation is to keep alive a most mischievous and feverish excitement? Am I wrong in my conclusions that it is not so much the seat of General Whitfield which disturbs them, as it is the laws of Kansas? Do you want the evidence in order to enable you to repeal this odious “Draco code,” as you think it to be? If you wish to assume the power to repeal this code, there is no need of evidence! That the laws were passed the book of statutes is positive proof. If they are odious, the odium appears upon their face.

Do you wish to perform the more legitimate office of making new and more stringent congressional laws for the future government of Territories—to guard, by other and better laws, against future abuses, similar to the ones complained of? In that view you need no evidence except that which you already have. In that view, sir, the Committee on Territories have already acted, having reported a law for Kansas.*

If this proposed law be proper to be enacted—and I see no objection to it—you have in your possession quite enough of the evidence sought, in this resolution, to furnish you with all the arguments which you could get by sending for persons and papers.

Sir, I am in favor of the most stringent laws for the protection of the elective franchise. I am

sensible, too, that there is no Government on the face of the earth which is so utterly feeble and imbecile in the punishment of treasons and misdemeanors as the Government of the United States. Our undefined notions of treason enable that monster to stalk all around us, observed but unpunished! If these Kansas disturbances, and the excitements consequent upon them, should result in the enactment of a new code of United States laws, to uphold the dignity of Government, to punish traitors, seditious emissaries, brawling filibusters, and puritanical fanatics, who preach insurrection—the country will have occasion to look back to these disturbances with gratification, as the great exhibitors of imperfections in our laws which needed amendment, and as the causes of those amendments. To this end, then, I will lend my feeble aid; and I will urge, in this connection, that enough has already been said, and enough known to induce the Judiciary Committee to turn their attention to a new code of laws on the still undefined subjects of sedition, insurrection, and rebellion.

Mr. Speaker, allow me to appeal to gentlemen to put a stop to this agitation. There is nothing to be gained by its continuance but discord and evil. Leave Kansas to herself. She will work out her own destiny. That Kansas will be a non-slaveholding State, the best-informed men of all parties believe. The force and power of organized societies to do their work in crowding the new Territories with homeless foreigners, with money to back them in this labor, and the facilities of travel which the North possesses over the South, give the North such great advantages that southern emigration will cease, and Kansas will be all that her northern friends may desire. I would not advise the South to continue this fruitless competition. For every one southern man who goes to Kansas, there will be from the North two Free-Soilers and four foreigners: these foreigners are more to be dreaded than the natives.

As I am opposed to the dark movements of northern emigrating societies, so I should oppose the same in the South. The peopling of any country by companies in hostile array is not consistent with the peaceful habits of American citizens. Let the law have its force. If under the organic act of Congress, the Territory of Kansas, in due time and with due solemnity and form, shall present a constitution honestly adopted by a majority of its inhabitants, I shall feel it to be my duty to accept that constitution, of whatsoever character it may be, so that it does not conflict with the Constitution of the United States.

and a non-resident of the said Territory, shall vote at any election which may be held in the said Territory by authority of law, he shall, on conviction thereof, be punished by a fine of not less than one hundred dollars and not exceeding five hundred dollars, and by imprisonment for a term of not less than six months and not more than two years.

* Sec. 6. And be it further enacted, That any judge of election who shall willfully and knowingly allow any vote to be polled in violation of the fourth and fifth sections of this act shall, on conviction thereof, be punished by a fine of not less than fifty dollars not more than three hundred dollars, and imprisoned for a term of not less than six months nor more than one year. That all offenses under this act may be prosecuted by indictment in any criminal court having jurisdiction of felonies or misdemeanors committed in said Territory. All laws, rules, or regulations inconsistent with the provisions of this act are hereby declared null and void.

* “Sec. 4. And be it further enacted, That if any person, not being an actual inhabitant or resident of the said Territory, shall cast his vote at any election which may be held in the said Territory by authority of law, such person so offending shall, on conviction thereof in any criminal court, be punished by fine not less than twenty dollars nor more than one hundred dollars, and imprisonment not less than two months nor more than six months; that if any person or persons shall come into any election district of said Territory in armed and organized bodies, for the purpose of participating in disturbances, controlling or voting at any election held or to be held under the authority of law therein, such person or persons so offending shall, on conviction thereof in any criminal court, be punished by a fine of not less than one hundred dollars and not exceeding five hundred dollars, and imprisonment for a term not less than three months and not exceeding one year.”

“Sec. 5. And be it further enacted, That if any person, being a member of any such armed and organized body as described in the preceding section, or connected therewith,